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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MAY 23 2019

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUISJEREMY Bradley PEARSON
(Write the full name of the plaintiff in this action.)Include prisoner registration number.)
534258 Plaintiff

v.

Frank Githemeier

Charles Peepers

(Write the full name of each defendant. The caption
must include the names of **all** of the parties.
Fed. R. Civ. P. 10(a). Merely listing one party and
writing "et al." is insufficient. Attach additional
sheets if necessary.)

2:19CV00041 RLW

Plaintiff Requests Trial by Jury



Yes



No

PRISONER CIVIL RIGHTS COMPLAINT UNDER 42 U.S.C. § 1983

NOTICE:

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date, the full name of a person known to be a minor, or a complete financial account number. A filing may include only: the last four digits of a social security number, the year of an individual's birth, a minor's initials, and the last four digits of a financial account number.

Except as noted in this form, plaintiff should not send exhibits, affidavits, witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the \$400.00 filing fee or an application to proceed without prepayment of fees and costs.

I. The Parties to this Complaint

A. The Plaintiff

Name: JEREMY B. PEARSON

Other names you have used: _____

Prisoner Registration Number: 534258

Current Institution:

Moberly Correctional Center, Moberly Missouri
P.O. Box 7

Indicate your prisoner status:

☐ Pretrial detainee ☒ Convicted and sentenced state prisoner

☐ Civilly committed detainee ☐ Convicted and sentenced federal prisoner

☐ Immigration detainee ☐ Other (explain):

B. The Defendant(s)

To the best of your knowledge, give the information below for each defendant named in the caption of this complaint. Make sure the defendant(s) named below are the same as those listed in the caption of this complaint. Attach additional pages if necessary.

For an individual defendant, include the person's job title, and check whether you are suing the individual in his or her individual capacity, official capacity, or both.

Defendant 1

Name: Corrections Supervisor (CSI) Frank Giltmeier

Job or Title: Corrections Supervisor (captain)

Badge/Shield Number: ?

Employer: Missouri Department of Corrections / Moberly

Address: P.O. Box 7 Moberly, Missouri 65270

✓ Individual Capacity

Official Capacity

Defendant 2

Name: Mr. Charles E. PEEPER

Job or Title: Corrections Officer II

Badge/Shield Number: E0129325

Employer: Missouri Department of Corrections / Moberly

Address: P.O. Box 7 Moberly, Missouri 65270

☒ Individual Capacity

☒ Official Capacity

II. Statement of Claim

Type, or neatly print, a short and plain statement of the **FACTS** that support your claim(s). For every defendant you have named in this complaint, you must state what he or she personally did to harm you. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Do not make legal arguments, or cite court cases or statutes. You may attach additional pages if necessary.

Your statement of claim must include all of the following information:

1. What happened to you?
2. When did it happen?
3. Where did it happen?
4. What injuries did you suffer?
5. What did each defendant personally do, or fail to do, to harm you?

- 1.) On 01/13/2019 I was sprayed with 2 cans of Mace by a Captain Frank Gittemeier. wrongly and maliciously. After I was sprayed with Mace I had a Seizure and came too on the Floor. I then told Sgt. Charles Peepers I need Medical Attention I had a seizure. He stated "I didn't see it and I was refused Medical. Cell has Camera!"
- 2.) IT happened in Moberly Correctional Center, P.O. Box 7, Moberly Missouri 65270. On 01/13/2019 in 002-02C-00475 in the Suicide Cell. Cell Camera and handheld video/Audio.
- 3.) IT happened in Suicide Cell 002-02C-00475. There is a camera in this cell and Sgt. Charles Peepers was holding a handheld video camera that has Audio and Video.
- 4.) My NOSE cracked and shifted slightly. Something happened to my neck that day. I have no idea what it is.
- 5.) Captain Frank Gittemeier came to the cell, opened the door and just started spraying Mace. After he sprayed I can he then started yelling "Get it off the Camera." There never was anything on the Camera. He sprayed me with a can of Mace before he ever gave me a Directive to Comply. I was just sitting down and had been for an hour or so that way and BAM I get assaulted with Mace. Captain Gittemeier used two cans on me before he realized I had covered the light a little so I could sleep better. He then commanded me to give him the blanket and I told him I can't, I can't see.
- 6.) After he leaves I couldn't breathe and I must have had a seizure cause I came to on the floor. I asked for help and Sgt. Charles Peepers denied me Medical attention.

III. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

- 1.) My NOSE was fractured and did shift. The bone cracked for about a month before it stopped.
- 2.) I did something to my neck when I had a seizure I still don't know what it is. But it feels like a torn Tendon / Ligament or something but there a huge Knot on my left side now.
- 3.) Mental (Psychological) Anguish from continuous assault by law officers.

Jeremy Bradley Pearson #534258
ALGOA CORRECTIONAL CENTER
8501 No More Victims Rd.
Jefferson City, MO 65101-4567

Frank Gittlemeier

1. Captain Frank Gittlemeier Assaulted me, Excessive Force while I was sitting down on concrete bed in cell 002-02C-00475.
2. Captain Frank Gittlemeier did so maliciously with Evil Intent.
3. The Camera in cell 002-02C-00475 will show me sitting quietly on concrete for about an hour or so. I had covered the cell light some with tissue so I could sleep. After about an hour or more goes by the camera will show the cell door opens quickly, I stand up and I am instantly hit with Mace, in the face, the eyes, and I'm now in shock and the camera will show I turn my back to him.
4. After he dumps a can of Mace on me Frank Gittlemeier starts yelling take it off the camera take it off the camera, I reply There's nothing on the camera What the fuck Man. He continues the onslaught of Mace still yelling Get it off the camera and I reply there's nothing on the camera You fucking Idiot.
5. The light was covered a little but according to CCW MR. Legrande you could clearly see inside the cell. I pulled the tissue off the camera and Frank Gittlemeier starts to yell hand me the blankets and I reply I can't, I can't see and the camera will show I kick him the blankets. He closes the door.
6. The camera will show I then begin to try and wipe the mace from my eyes. I remember talking to my neighbors and then I started to hyperventilate and next thing I know I come to on the floor. I'm in complete shock and I request for medical to Sgt Peepers.

Charles Peepers

1. I have a history of seizures. The camera will show I did have a seizure shortly after I was Maced by Frank Gittlemeier. I did tell MR. Peepers I had a seizure and I need medical attention. Please.
2. Sgt Charles Peepers then told me that he didn't see it and refused me medical attention.
3. Sgt Charles Peepers showed evil intent and a callous indifference by denying me medical attention. Also neither him nor MR. Gittlemeier would let medical come and wash the Mace outta my eyes.

Jeremy Bradley Pearson #534258
MOBERLY CORRECTIONAL CENTER
P.O. Box 7
Moberly, MO 65270

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- 1.) The Conduct Violation was written by Charles Peepers. The entire C.D.V. is a lie.
 - 2.) The Camera will show it was not covered.
 - 3.) The Camera will show I was NOT being loud, agitated or shouting.
 - 4.) The Camera will show I was, at the time I was assaulted, not harming myself or another, not being disruptive and most importantly I was not Refusing a DIRECTIVE TO Comply.
 - 5.) The handheld Camera that Sgt. Charles Peepers was holding DOES HAVE AUDIO AND VIDEO.
 - 6.) Last but not least the C.D.V. for Creating a Disturbance I have enclosed I received no reprimand for and Disappeared.

I am suing also in their Official Capacity because it is obvious that the State is establishing an official Custom that's ok to do what they have done to me as I am now presenting this claim to you having exhausted the Grievance Procedure.

IV. Relief

State briefly and precisely what you want the Court to do for you. Do not make legal arguments. Do not cite any cases or statutes. If you are requesting money damages, include the amounts of any actual damages and/or punitive damages you are claiming. Explain why you believe you are entitled to recover those damages.

- 1.) Compensatory Damages - Fix my Nose back where it was AND my neck.
 - 2.) Punitive - Captain Gittlemeyer and Sgt. Peepers were clearly motivated by evil intent and clearly a callous indifference to my rights and me as a human being. Also psychological ("mental emotional") noted in my grievance appeal because of what I've suffered by the St. Louis P.D.
- V. Exhaustion of Administrative Remedies/Administrative Procedures

The Prison Litigation Reform Act ("PLRA") 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison or other correctional facility where you were confined at the time of the events giving rise to your claim(s):

Moberly Correctional Center

- B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. If yes, does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance? (*Attach a copy of your grievance, if available*)

Copy attached

3. What was the result, if any? (*Attach a copy of any written response to your grievance, if available*)

Copy attached

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (*Describe all efforts to appeal to the highest level of the grievance process.*)

Yes, the grievance process is completed

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(*Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.*)

VI. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

- A. To the best of your knowledge, have you ever had a case dismissed on the basis of this "three strikes rule"?

☐

Yes

☒

No

If yes, state which court dismissed your case and when it was dismissed. Attach a copy of the court's order, if possible.

Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒

Yes

☒

No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff JEREMY B. PEARSON

Defendant(s) Joseph M. Morrell

2. Court (if federal court, name the district; if state court, name the state and county)

UNITED STATES DISTRICT COURT

Southeastern Division

555 Independence Street

Cape Girardeau, Missouri 63703

3. Docket or case number 4:18-cv-00813

4. Name of Judge assigned to your case Judge STEPHEN N. LIMBAUGH JR.

5. Approximate date of filing lawsuit June 6, 2018
6. Is the case still pending?
☒ Yes
☐ No (If no, give the approximate date of disposition): _____
7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)
- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?
☐ Yes ☒ No
- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)
1. Parties to the previous lawsuit
Plaintiff _____
Defendant(s) _____
2. Court (if federal court, name the district; if state court, name the state and county)
3. Docket or case number _____
4. Name of Judge assigned to your case _____
5. Approximate date of filing lawsuit _____

6. Is the case still pending?

☐ Yes

☐ No (If no, give the approximate date of disposition): _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

VII. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 15 day of May, 20 19.

Signature of Plaintiff

